

FCC SATELLITE SHARING CASES APPROVING MILESTONE COMPLIANCE

Case	FCC Findings
<p><i>Applications of United States Satellite Broadcasting Co. Inc.</i>, 7 FCC Rcd 7247 (MMB 1992)</p>	<p>First due diligence milestone required USSB “to complete contracting for construction of the satellite station(s) within one year of the grant of the construction permit.”</p> <p>FCC interpreted first due diligence milestone to require contract that “contains no unresolved contingencies which could preclude substantial construction of the satellites.”</p> <p>FCC found that USSB-Hughes sharing agreement “complies with the first component of the due diligence requirement.”</p> <p>FCC found that payment schedule contained in sharing agreement and USSB’s compliance with payment schedule were “sufficient ‘to determine that [USSB] is making a financial commitment to the construction of the satellite.’”</p> <p>FCC found that sharing agreement complied with first milestone, even though contract called for implementation of a modified system requiring FCC approval.</p>
<p><i>Application of Volunteers in Technical Assistance</i>, 12 FCC Rcd 3094 (IB 1997) (“<i>VITA II</i>”)</p>	<p>FCC established milestones requiring VITA to complete construction and launch of satellite by specific dates.</p> <p>FCC rejected opponent’s argument that sharing arrangement did not satisfy “either the letter or the spirit of the construction and launch milestones.”</p> <p>FCC rejected opponent’s argument that VITA-Final Analysis sharing agreement contained open contingencies in violation of milestones.</p> <p>FCC viewed VITA-Final Analysis sharing agreement as just like other “construction and launch services agreements [that] have contingencies that may result in the termination of the agreement.”</p>
<p><i>Application of Volunteers in Technical Assistance</i>, 12 FCC Rcd 13995 (1997) (“<i>VITA I</i>”)</p>	<p>FCC established milestones requiring VITA to complete construction and launch of satellite by specific dates.</p> <p>By approving VITA-CTA sharing arrangement, FCC recognized that timely implementation of sharing arrangement would satisfy construction and launch milestones.</p>